THE HON'BLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 8581 of 2006

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Dated: 25-04-2006

Between:

K. Vara Prasada Rao.

..Petitioner.

and

The Municipal Corporation of Visakhapatnam, rep. By its Commissioner, Visakhapatnam Municipal Corporation, Visakhapatnam.

..Respondent.

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WRIT PETITION No. 8581 of 2006

ORDER:

This petition is filed seeking a writ of mandamus to declare the action of

respondent in trying to encroach upon the petitioner's land to an extent of Ac:0-84 cents Sq.ft (0.36590) situated in Town S.No.1011/P, Waltair Ward, Visakhapatnam, as illegal and arbitrary.

The case of the petitioner is that the Proprietor of China Waltair Estate Sri Perla Satteyya granted a patta in favour of the petitioner's father to an extent of 0.84 cents in T.S.No.1011/Part of Waltair Ward in Visakhapatnam on 08-06-1947 and since then, his father and after his death, the petitioner is in peaceful possession and enjoyment of the said land. It is stated that the Mandal Revenue Officer, Visakhapatnam, and the Special Officer, Urban Land Ceiling Authorities, Visakhapatnam, after verification, issued necessary certificates stating that the petitioner is in physical possession and enjoyment of the said land. It is further stated that the respondent authorities are trying to encroach upon his land and trying to interfere with his peaceful possession and enjoyment of the said land. Hence, the writ petition.

Having regard to the facts and circumstances of the case, I am not inclined to express any opinion with regard to the total extent, location and boundaries etc., Even if the petitioner has encroached upon the municipal land, it is for the respondent to issue appropriate notice with regard to the said encroachment, but the respondent cannot encroach upon the land of the petitioner without following due process of law and if the respondent wants any portion of the land of the petitioner for the public purpose, it is open for the respondent to acquire the same either by way of private negotiations or by initiating the Land Acquisition Proceedings.

Accordingly, the writ petition is disposed of directing the respondent not to dispossess the petitioner from his land without following due process of law. No order as to costs.

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25-04-2006

Note: Issue CC by tomorrow.

(Bo)

sj